



Dkt. 2271/53467-A1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Reissue Application of: Shunichi SATO

Reissue Application No.: 10/603,418

Filed: June 24, 2003

Original Patent No.: 5,904,549

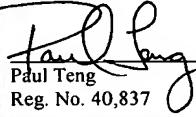
Granted On: May 18, 1999

For: METHODS FOR GROWING SEMICONDUCTORS AND DEVICES THEREOF  
FROM THE ALLOY SEMICONDUCTOR GAINNAS

Examiner: Laura M. Schillinger

Group Art Unit: 2813

I hereby certify that this correspondence is being deposited this date  
with the U.S. Postal Service with sufficient postage as first class mail  
in an envelope addressed to: Commissioner for Patents, P.O. Box  
1450, Alexandria, VA 22313-1450.

  
Paul Teng

Reg. No. 40,837

January 5, 2005  
Date

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**COMMUNICATION IN RESPONSE TO  
DECEMBER 8, 2004 RESTRICTION REQUIREMENT**

This Communication is submitted in response to the December 8, 2004 Restriction Requirement issued by the U.S. Patent and Trademark Office in connection with the above-identified application.

The December 8, 2004 Restriction Requirement indicates that examination of the application will be restricted by the Patent Office under 35 U.S.C. §121 to one of the following allegedly distinct species:

Group I. Claims 22-43, drawn to a method, classified in class 438, subclass 478,  
Species 1, claims 22 and 38,

Species 2, claim 23,  
Species 3, claims 24-28 and 38-39,  
Species 4, claims 29 and 38,  
Species 5, claims 30 and 38,  
Species 6, claims 31 and 38,  
Species 7, claims 32 and 38,  
Species 8, claims 33 and 38,  
Species 9, claims 34 and 38,  
Species 10, claims 35 and 38,  
Species 11, claims 36 and 38,  
Species 12, claims 37 and 38,  
Species 13, claims 40-42; and

Group II. Claims 44-59, drawn to a device, classified in class 257, subclass 161,

Species 1, claims 44-46,  
Species 2, claim 47-49,  
Species 3, claims 50 and 51,  
Species 4, claims 52 and 53,  
Species 5, claims 54 and 55,  
Species 6, claims 56 and 57,  
Species 7, claims 58 and 59.

Applicant hereby elects, with traverse, to prosecute the invention of Group I, Species 1, claims 22 and 38.

Applicant, however, respectfully requests reconsideration of the restriction requirement. Under 35 U.S.C. §121, restriction may be required if two or more independent and distinct inventions are claimed in one application. Under M.P.E.P. §803, the application must be examined on the merits, even though it includes claims to distinct inventions, if the search and examination of an application can be made without serious burden.

Groups I and II (and the various species therein) are not independent. Under MPEP

§802.01, "independent" means there is no disclosed relationship between the subjects disclosed. As acknowledged in the Office Action, Groups I and II are related as process of making and product made. Therefore, Applicant respectfully submits that the Groups are not independent.

In addition, Applicant submits that it would not be a serious burden if restriction is not required, because a search for prior art for one Group (and species) will likely turn up relevant references for the other Group (and species). Therefore, Applicant submits that search and examination of the Groups together would not be a serious burden.

Accordingly, in view of the preceding remarks, Applicant respectfully requests that the restriction requirement be withdrawn.

If a petition for an extension of time is required to make this response timely, this paper should be considered to be such a petition. The Office is hereby authorized to charge any fees that may be required in connection with this response and to credit any overpayment to our  
Deposit Account No. 03-3125.

If a telephone interview could advance the prosecution of this application, the Examiner is respectfully requested to call the undersigned attorney.

Respectfully submitted,

  
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